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**MAY 04 2006**

In re Application of  
Stephen Miller  
Application No. 10/726,003  
Filed: November 12, 2003  
Attorney Docket No. 2058.300C

**OFFICE OF PETITIONS**

**ON PETITION**

This is a decision on the petition, filed April 11, 2006, to reinstate the patent application or in the alternative, to revive the application.

The petition under 37 CFR 1.181 is **GRANTED**.

The petition under 37 CFR 1.137(b) is **DISMISSED** as involving moot issues.

The application was held abandoned on September 16, 2005, for failure to file a response to the Final Office Action mailed June 15, 2005. No extensions of time having been filed prior to the expiration of the maximum period obtainable under 37 CFR 1.136, this application became abandoned. Accordingly, a Notice of Abandonment was mailed January 12, 2006.

Petitioner asserts that a Notice of Appeal was filed on October 13, 2005 with a one month extension of time request. Submitted as proof is a copy of the Notice of Appeal, and extension of time request, bearing a certificate of mail dated October 13, 2005, and a copy of a USPTO post card receipt dated-stamped on October 13, 2005.

A search of the application file and the USPTO records reveals that in fact, the Notice of Appeal and one month extension of time, all with the proper fees, were timely filed on October 13, 2005.

Accordingly, the response was timely and the Notice of Abandonment mailed January 12, 2006 was mailed in error and is hereby withdrawn. No petition fee is due and none has been charged. In view thereof, there is no need to treat the petition under the unintentional standard.

**The Notice of Appeal filed October 13, 2005 has been entered and made of record. Accordingly, the two (2)-month period for filing the Appeal Brief, accompanied by the fee required by law, runs from the date of this decision.**

This matter is being referred to Technology Center 3636 for processing the Notice of Appeal.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

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